Supreme Court, U.S.
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IN THE

Supreme Court of the United States

TOWN OF CASTLE ROCK, COLORADO,
Petitioner,
v.
JESSICA GONZALES, INDIVIDUALLY AND AS NEXT BEST FRIEND OF HER DECEASED MINOR CHILDREN, REBECCA GONZALES, KATHERYN GONZALES, AND LESLIE GONZALES,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals
for the Tenth Circuit

BRIEF *AMICI CURIAE* OF NATIONAL NETWORK TO END DOMESTIC VIOLENCE, NATIONAL NETWORK TO END DOMESTIC VIOLENCE FUND, COLORADO COALITION AGAINST DOMESTIC VIOLENCE,
(CONTINUED ON INSIDE COVER)

IN SUPPORT OF RESPONDENT

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INTEREST OF AMICI CURIAE

National Network to End Domestic Violence, National Network to End Domestic Violence Fund, Colorado Coalition Against Domestic Violence, Alabama Coalition Against Domestic Violence, Alaska Network On Domestic Violence And Sexual Assault, Arizona Coalition Against Domestic Violence, Arkansas Coalition Against Domestic Violence, California Alliance Against Domestic Violence, Connecticut Coalition Against Domestic Violence, D.C. Coalition Against Domestic Violence, Delaware Coalition Against Domestic Violence, Dwa Fanm, Florida Coalition Against Domestic Violence, Georgia Coalition Against Domestic Violence, Hawaii State Coalition Against Domestic Violence, Idaho Coalition Against Sexual And Domestic Violence, Illinois Coalition Against Domestic Violence, Indiana Coalition Against Domestic Violence, Iowa Coalition Against Domestic Violence, Kansas Coalition Against Sexual And Domestic Violence, Kentucky Domestic Violence Association, Louisiana Coalition Against Domestic Violence, Maine Coalition To End Domestic Violence, Maryland Network Against Domestic Violence, Jane Doe, Inc. -- Massachusetts Coalition Against Sexual Assault And Domestic Violence, Michigan Coalition Against Domestic And Sexual Violence, Minnesota Coalition For Battered Women, Mississippi Coalition Against Domestic Violence, Missouri Coalition Against Domestic Violence, Montana Coalition Against Domestic And Sexual Violence, National Center On Domestic And Sexual Violence, Nebraska Domestic Violence Sexual Assault Coalition, Nevada Network Against Domestic Violence, New Hampshire Coalition Against Domestic And Sexual Violence, New Jersey Coalition For Battered Women, New Mexico Coalition Against Domestic Violence, New York

State Coalition Against Domestic Violence, North Carolina Coalition Against Domestic Violence, North Dakota Council on Abused Women's Services, Ohio Domestic Violence Network, Oklahoma Coalition Against Domestic Violence And Sexual Assault, Oregon Coalition Against Domestic and Sexual Violence, Pennsylvania Coalition Against Domestic Violence, Rhode Island Coalition Against Domestic Violence, South Carolina Coalition Against Domestic Violence And Sexual Assault, South Dakota Coalition Against Domestic Violence and Sexual Assault, Tennessee Coalition Against Domestic And Sexual Violence, Texas Council On Family Violence, Utah Domestic Violence Council, Vermont Network Against Domestic And Sexual Violence, Virginia Sexual And Domestic Violence Alliance, Washington State Coalition Against Domestic Violence, West Virginia Coalition Against Domestic Violence, Wisconsin Coalition Against Domestic Violence and Wyoming Coalition Against Domestic Violence and Sexual Assault ("*Amici*") submit this brief in support of Respondent.* The interest of *Amici* is described in the Appendix to this brief.

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* Pursuant to Sup. Ct. R. 37.3(a), all parties have consented to the filing of this brief and their letters of consent have been filed with the Clerk of the Court. Pursuant to Rule 37.6, *Amici Curiae* state that no counsel for any party authored this brief in whole or in part and no person or entity, other than Amici *Curiae*, their members, or their counsel, made a monetary contribution to the preparation of this brief.

SUMMARY OF ARGUMENT

Her three young daughters are dead, but — according to the petitioner — Jessica Gonzales wasn't given a protective order, she was given a piece of paper telling her she could call her local police and warn them of impending trouble. The rest was up to them. According to petitioner, that is the only process she was due. Petitioner urges the Court to ignore plain language in both court order and statute, overlook the intent of the legislature, and override the reason and experience of state and federal governments that protective orders must be enforced or they enhance the risk of deadly violence rather than prevent it. Petitioner argues that *nothing about a protective order issued by a Colorado court*, with its express commitment of police enforcement — and nothing about Colorado law, with its clear mandates to law enforcement and repeated promises to protect victims of violence — actually means what it says. Although petitioner expresses sympathy with her plight and dismay at the senseless loss of three young lives, it claims Jessica Gonzales did not have a "due process" interest in the enforcement of her protective order. Petitioner is wrong.

Colorado law and the court order in this case created an entitlement for Jessica Gonzales in having her court-issued protective order enforced. The plain language of the statute and the court order are mandatory and imperative, and the discretion afforded law enforcement is a minimal threshold that was clearly met in this case. Public policy in Colorado and the combined reason and experience of a majority of states and the federal government strongly support a straightforward reading of the court order and state statutes that applied to Ms. Gonzales. Protective orders only work if they are enforced. They increase danger to victims if they are not.

If petitioner is correct, the discretion it claims police officers possess in the absence of due process safeguards would render Colorado's statutory scheme for protecting victims of domestic violence a nullity. Court-issued protective orders would become nothing more than a reminder that victims should ask for police help when they are in danger. If petitioner is correct, Ms. Gonzales and women like her should not trust the plain language of state law and court orders, but rely instead on the discretion of law enforcement — just as citizens without protective orders do. But unlike ordinary citizens without a protective order, a victim of domestic violence who seeks a protective order risks enhanced danger from her batterer. When law enforcement views a protective order as a mere suggestion, it enhances the likelihood of further violence.

Jessica Gonzales and her children "relied on the enforcement of the protective order entered in this case to go about their daily lives," as the Colorado legislature and state court manifestly intended they should.[1] Ms. Gonzales had a property interest that was violated without due process. Her claim should be allowed to proceed. The plain language of the statute and its underlying public policy are not empty vessels. For these reasons, the Court of Appeals for the Tenth Circuit correctly found that procedural due process claims could be brought against the Town of Castle Rock. Its decision should be AFFIRMED.

ARGUMENT

The protective order issued by the Colorado court to Jessica Gonzales created a property interest upon which she

[1] *Gonzales v. City of Castle Rock*, 366 F.3d 1093, 1110 (10th Cir. 2004) (en banc).

could reasonably rely.[2] This expectation is consistent with the language of the order, the circumstances under which it was issued, the policy of the State of Colorado, the policy of a majority of state governments, and the policy of the federal government. Legislatures and courts mandate police enforcement of protective orders to address the enhanced risks to life and safety that occur when these orders are issued. The Department of Justice itself plainly recognizes that protective orders only reduce the risk of further violence if the restrained party is convinced they will be enforced. Failure to enforce protective orders in the manner intended will increase the likelihood of separation violence and reduce the likelihood that battered women will seek protective orders for themselves and their children. The decision of the Court of Appeals for the Tenth Circuit is the only one consistent with state policy and the commitment made to Jessica Gonzales. For these reasons, its decision should be AFFIRMED.

I. JESSICA GONZALES REASONABLY RELIED ON A COURT ORDER THAT FULFILLED COLORADO'S COMMITMENT TO SAFEGUARD HER AND HER CHILDREN AGAINST THE LIKELIHOOD OF FURTHER VIOLENCE

Protective orders represent a commitment to safeguard victims and potential victims against violence. The majority of states have enacted laws similar to Colorado's, all intended to accomplish the same objectives. In fact, it is widely understood that violence frequently escalates following separation or when a victim is trying to separate

[2] As the Tenth Circuit properly held, it was the protective order issued to Jessica Gonzales that gave rise to her property interest, not any general obligation of the police to protect the public. *See id.* at 1099, 1103 (distinguishing *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189 (1989)).

from a batterer. Protective orders are emergency remedies designed to provide for immediate safety in those circumstances. For that reason, among others, the federal government itself encourages states to enforce their protective order regimes. In his public statement accompanying the October 2002 proclamation of National Domestic Violence Awareness Month, President Bush made it clear:

> We must continue to hold domestic abusers accountable; we must punish them to the full extent of the law; and we must prevent them from inflicting more abuse. Protective orders are helpful and can be enforced in every jurisdiction in our country, which means their power extends across State lines and onto tribal lands. This legal authority makes it easier for police and prosecutors to keep aggressors away from their intended targets. Many abusers become more dangerous after court-enforced separation from their victims and often use visitation or exchange of children as an opportunity to inflict abuse. We are working to expand programs that improve the safety of family members in these situations.[3]

If petitioner is correct, then the enactment of these laws and the issuance of court orders following notice and an opportunity to be heard by all parties is not only meaningless, it is in fact intended to produce an escalation of violence rather than a protective remedy. Such a result could not have been intended by the Colorado legislature and it cannot be countenanced by this Court.

[3] Proclamation No. 7601, 67 Fed. Reg. 62, 169 (Oct. 1, 2002).

A. Protective Orders Are Intended To Safeguard Victims From Further Violence And Cannot Accomplish Their Purpose If Petitioner's Interpretation Is Accepted

Jessica Gonzales had a claim of entitlement to the enforcement of her court-issued protective order. Mandatory enforcement of protective orders is a part of Colorado's comprehensive statutory scheme to prevent domestic violence.[4] The Colorado legislature recently confirmed "that the issuance and enforcement of protection orders are of paramount importance in the state of Colorado because protection orders promote safety, reduce violence, and prevent serious harm and death."[5] Domestic violence is defined in Colorado as "an act or *threatened act* of violence"

[4] Colo. Rev. Stat. § 13-14-102 (2004) (listing the duties a court *shall* fulfill when issuing a restraining order). The word "shall" in the Colorado statutes and court orders plainly bespeaks intent to command. *See Alabama v. Bozeman*, 533 U.S. 146, 153 (2001); *see also Mallard v. U.S. Dist. Court*, 490 U.S. 296, 301-02 (1989). Following dictionary definitions, the word "shall" is used in laws "to express what is mandatory." *Webster's Third New International Dictionary* 2085 (15th ed. 1966); *accord Black's Law Dictionary* 958 (abridged 6th ed. 1991) ("As used in statutes . . . ['shall'] is generally imperative or mandatory. . . . The word in ordinary usage means 'must' and is inconsistent with a concept of discretion."); *see also Smith v. United States*, 508 U.S. 223, 228 (1993) ("When a word is not defined by statute, we normally construe it in accord with its ordinary or natural meaning."). The existence of the protective order, issued after notice and a hearing, consistent with the explicit policy of the State of Colorado for safeguarding against future violence, manifestly secures a benefit that supports a claim of entitlement under the Due Process Clause of the Fourteenth Amendment.

[5] H.B. 04-1305, 2004 Colo. Legis. Serv. Ch. 178 § 2 (West) (codified at Colo. Rev. Stat. § 13-14-102(1)). This clarifying amendment of July 1, 2004 confirms the understanding of the Tenth Circuit Court of Appeals. *See Gonzales*, 366 F.3d at 1107-08 (protective orders intended to be enforced to prevent domestic violence).

or any crime against a person or property "when used as a method of coercion, control, punishment, intimidation or revenge directed against a person with whom the actor is or has been involved in an intimate relationship."[6]

To further the purpose of "promot[ing] safety, reduce[ing] violence, and prevent[ing] serious harm and death,"[7] Colorado has authorized courts to issue protective orders[8] and has provided that violation of a protective order is a class 2 misdemeanor — a crime.[9] A central registry of protective orders facilitates police verification of these orders when responding to complaints of violation.[10] Police officers are required to make an arrest according to section 18-6-803.5(3) of the Colorado Revised Statutes as follows:

> (b) A peace officer *shall arrest, or*, if an arrest would be impractical under the circumstances, *seek a warrant for the arrest* of a restrained person when the peace officer has information amounting to probable cause that:
>
> (I) The restrained person has violated or attempted to violate any provision of a protection order; and
>
> (II) The restrained person has been properly served with a copy of the protection order or the restrained person has received

[6] Colo. Rev. Stat. § 18-6-800.3(1) (2004) (emphasis added).

[7] Colo. Rev. Stat. § 13-14-102(1) (effective July 1, 2004).

[8] *See id.* § 13-14-102(1.5) (effective July 1, 2004) (replacing *id.* § 13-14-102(1) (2003)).

[9] Colo. Rev. Stat. § 18-6-803.5(2)(a)(2004).

[10] *See id.* § 18-6-803.7.

> actual notice of the existence and substance of such order. (emphasis added)

Significantly, the Colorado legislature has determined that police officers who make an arrest pursuant to this section *cannot* be held civilly or criminally liable for the arrest if they were acting in good faith and without malice.[11] Conversely, police officers who fail to arrest are not protected from liability.

Colorado law and the court order issued to Ms. Gonzales leave law enforcement with the discretion solely to determine probable cause for violation or attempted violation of the protective order, and remove any need for the police to assess the danger to the victim or the benefit of arrest. Colorado law therefore creates a property interest that secures a specific benefit and supports a claim of entitlement to those benefits.[12] What petitioner suggests, in essence, is that the Court "cavalierly reject[] the considered judgment of the [Colorado] Legislature" that protective orders must be enforced as intended to safeguard against further violence. *Santosky v. Kramer*, 455 U.S. 745, 791 (1982) (Rehnquist, J., dissenting).

Indeed, the interpretation urged by petitioner, interposing total police discretion as to whether to enforce a court-issued protective order at all, would render the "shall arrest" language in protective orders and protective order enforcement statutes entirely superfluous and equate it with the more general "shall use every reasonable means to enforce" language therein, violating a "cardinal rule of statutory interpretation" that terms should not be construed to be redundant. *Kungys v. United States*, 485 U.S. 759, 778 (1988) (Scalia, J., plurality); *see also Colautti v. Franklin*,

[11] *See id.* § 18-6-803.5(5).

[12] *See Board of Regents v. Roth*, 408 U.S. 564, 577 (1972).

439 U.S. 379, 392 (1979) (an "elementary cannon of construction [is] that a statute should be interpreted so as not to render [parts] inoperative"). To say that protective orders merely give victims the same right every member of the public has to call the police and ask for help would "make[] nonsense of the statute." *Kungys*, 485 U.S. at 778. Such entirely "suggestive" protective orders would have the effect desired by the Colorado legislature "upon only the most dim-witted of prevaricators." *Id.* at 779. The tragic consequences of orders rendered meaningless in this manner are all too evident in the case of Jessica Gonzales.[13]

The policy determination made by the Colorado legislature is reflected by a majority of the states. State recognition of domestic violence as a critical problem and state enactment of strong protective order legislation represent an important national trend in this area. The states have an important role to play in preventing domestic violence, addressing its consequences, and protecting victims. *Cf. New State Ice Co. v. Liebmann,* 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting) (recognizing importance of states as "laborator[ies]" of democracy). Indeed, the leadership role of states in this area is not in dispute. *Cf. Santosky*, 455 U.S. at 770 (the issue of domestic relations "has been left to the states since time immemorial").

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[13] *Amicus* Solicitor General's argument that placement of language below the judge's signature on the protective order itself somehow renders it merely advisory is contrary to law and prior positions taken by the United States. *See, e.g., United States v. Bonanno*, 146 F.3d 502, 512 (7th Cir. 1998) (entire sentencing order entered by judge, including pre-printed boilerplate provisions, must be followed by defendant); *Lavin v. Thornton*, 959 F. Supp. 181, 191 (S.D.N.Y. 1997) (FBI agent entitled to rely on boilerplate language in consent to search form). The whole purpose of standardized language in protective orders is to ensure uniform enforcement state-wide, to provide a meaningful remedy to all victims, and not to neuter the very purpose for which the order is issued.

Every state has enacted legislation to authorize protective orders as a significant tool to prevent domestic violence.[14]

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[14] Ala. Code §§ 30-5-1 to -11, 30-5A-1 to -7, 30-5B-1 to -10 (1998 & Supp. 2004); Alaska Stat. §§ 18.66.100 – .180 (Michie 2004); Ariz. Rev. Stat. Ann. § 13-3602 (West 2001 & Supp. 2004); Ark. Code Ann. §§ 9-15-201 to -216 (Michie 2002 & Supp. 2003); Cal. Fam. Code §§ 6200 – 6409 (Deering 1996 & Supp. 2005); Colo. Rev. Stat. §§ 13-14-101 to -104 (2004); Conn. Gen. Stat. §§ 46b-15 to -16 (2003), 46b-38c, *amended by* P.A. 03-202, 2003 Conn. Legis. Serv. § 5 (West); Del. Code Ann. tit. 10 §§ 1041 – 1053 (1999 & Supp. 2004); D.C. Code Ann. §§ 16-1001 to -1006, -1041 to -1048 (2001 & Supp. 2004); Fla. Stat. ch. 741.28- .315 (2004); Ga. Code Ann. §§ 19-13-3 to -6 (2004); Haw. Rev. Stat. §§ 586-1 to -11, -21 to -26 (1993 & Supp. 2003); Idaho Code §§ 39-6301 to -6316 (Michie 1998 & Supp. 2001); 725 Ill. Comp. Stat. 5/112A-1 to -31, 750 Ill. Comp. Stat. 60/101 to /104 (2002 & Supp. 2003); Ind. Code Ann. §§ 34-26-5-1 to -19 (Michie Supp. 2004); Iowa Code §§ 236.3 – .11, .18 – .19 (2003); Kan. Stat. Ann. §§ 60-3101 to -3112 (1994 & Supp. 2003); Ky. Rev. Stat. Ann. §§ 403.720 – .785 (LEXIS through 2004 Extraordinary Session); La. Rev. Stat. Ann. §§ 46:2131 – :2143 (West 1999 & Supp. 2005); Me. Rev. Stat. Ann. tit. 19-A, §§ 4001 – 4014 (West 1998 & Supp. 2004); Md. Code Ann., Cts. & Jud. Proc. §§ 3-1501 to -1509 (2002 & Supp. 2003); Md. Code Ann., Fam. Law §§ 4-501 to -511 (1999 & Supp. 2003); Mass. Gen. Laws ch. 209A §§ 1 – 10 (2002 & Supp. 2003); Mich. Comp. Laws Ann. §§ 600.2950 – .2950m (West Supp. 2004); Minn. Stat. § 518B.01 (2002); Miss. Code Ann.§§ 93-21-1 to -29 (2004); Mo. Ann. Stat. §§ 455.005 – .085 (West 2003 & Supp. 2004); Mont. Code Ann. §§ 40-15-101 to -408 (2003); Neb. Rev. Stat. §§ 42-901 to -940 (1998 & Supp. 2002, 2003); Nev. Rev. Stat. 33.017 - .100 (2003); N.H. Rev. Stat. Ann. § 173-B:1-14 (2001 & Supp. 2004); N.J. Stat. Ann. § 2C:25-28 to -35 (West Supp. 2004); N.M. Stat. Ann. §§ 40-13-3 to -6 (McKinney 2005); N.Y. Fam. Ct. Act. §§ 841-842 (McKinney Supp. 2004); N.C. Gen. Stat. §§ 50B-1 to -7 (1999 & Supp. 2004); N.D. Cent. Code §§ 14-07.1-01 to -18 (2004); Ohio Rev. Code Ann. § 3113.31 (West 2000 & Supp. 2004); Okla. Stat. Ann. tit. 22, §§ 60-60.14 (West 2004 & Supp. 2005); Or. Rev. Stat. §§ 107.700 to -.732 (2003); 23 Pa. Cons. Stat. § 6108 (West 2001 & Supp. 2004); R.I. Gen. Laws §§ 8-8.1-1 to -8 (1997 & Supp. 2004); S.C. Code Ann. §§ 20-4-10 to -140 (Law. Co-op 1985 & Supp. 2004); S.D. Codified Laws §§ 25-10-1 to -13 (Michie 1999 & Supp. 2003); Tenn. Code Ann. §§ 36-3-601 to -622 (2001 & Supp. 2004); Tex. Fam. Code Ann. §§ 85.021 – .026 (Vernon 2002); Utah Code Ann. §§ 30-6-1 to -15 (1998 & Supp. 2004); Vt. Stat. Ann. tit. 15, §§ 1101 – 1115 (2002); Va. Code Ann. § 16-1-279.1

Every state, including Colorado, has enacted criminal enforcement provisions or criminal sanctions for protective order violations to ensure that these orders are not merely pieces of paper but instead an important barrier between the victim and her abuser.[15] A majority of the states — thirty-

(Michie 2003 & Supp. 2004); Wash. Rev. Code §§ 26.50.060 – .120 (2004); W. Va. Code Ann. § 48-27-501 to -511 (Michie 2004); Wis. Stat. Ann. § 813.12 (West Supp. 2004); Wyo. Stat. Ann. §§ 35-21-103 to -111 (Michie 2003).

[15] Ala. Code §§ 15-10-3(2004), 30-5A-4 (1998); Alaska Stat. § 11.56.740 (Michie 2004); Ariz. Rev. Stat. Ann. §§ 13-3602(M), 13-2810 (West 2001 & Supp. 2004); Ark. Code Ann. § 5-53-134 (Michie Supp. 2003), § 9-15-207 (Michie 2002); Cal. Fam. Code § 6388 (Deering 1996), Cal. Penal Code § 836 (Deering Supp. 2005); Colo. Rev. Stat. Ann. § 18-6-803.5 (2004); Conn. Gen. Stat. §§ 53a-107, -223, -223b (2003); Del. Code Ann. tit. 10 § 1046 (Supp. 2004); D.C. Code Ann. § 16-1005(g) (Supp. 2004); Fla. Stat. ch. 741.31(4), 901.15(6) (2004); Ga. Code Ann. § 19-13-6 (2004); Haw. Rev. Stat. § 586-11 (Supp. 2003) (criminal punishment for protection order violation); Idaho Code § 39-6312 (Michie Supp. 2001); 725 Ill. Comp. Stat. 5/112A-23 (Supp. 2003); 750 Ill. Comp. Stat. Ann. 60/223 (Supp. 2003); Ind. Code Ann. § 35-46-1-15.1 (Michie 2004); Iowa Code § 236.8 (2003); Kan. Stat. Ann. § 60-3107(h) (Supp. 2003); Ky. Rev. Stat. Ann. § 403.760, .763 (LEXIS through 2004 Extraordinary Session); La. Rev. Stat. Ann. § 14.79 (2004), § 46-2137 (West Supp. 2005); Me. Rev. Stat. Ann. tit. 19-A, § 4011 (West 1998 & Supp. 2004), tit. 15 § 321(6) (West 2003); Md. Code Ann., Cts. & Jud. Proc. § 3-1508; Md. Code Ann., Fam. Law § 4-509 (Supp. 2003); Mass. Gen. Laws ch. 209A §§ 3A, 7 (2002 & Supp. 2003); Mich. Comp. Laws Ann. §§ 600.2950(23), 764.15b (West Supp. 2004); Minn. Stat. § 518B.01, subd. 14 (2002); Miss. Code Ann. § 93-21-21 (2004), § 99-3-7 (Supp. 2004); Mo. Ann. Stat. § 455.085(7) (West 2003); Mont. Code Ann. §§ 40-15-204, 45-5-626 (2003); Neb. Rev. Stat. § 42-924(2) (Supp. 2002), § 42-928 (1998); Nev. Rev. Stat. 33.070, .100 (2003); N.H. Rev. Stat. Ann. § 173-B:9 (2001 & Supp. 2004); N.J. Stat. Ann. § 2C:25-31 (West Supp. 2004); N.M. Stat. Ann. § 40-13-6 (McKinney 1999); N.Y. Crim. Proc. Law § 140.10 (McKinney 2004 & Supp. 2005); N.C. Gen. Stat. § 50B-4.1 (2003); N.D. Cent. Code §§ 14-07.1-10 to -11 (2004); Ohio Rev. Code Ann. § 2935.03 (West 1997 & Supp. 2004); Okla. Stat. Ann. tit. 22, §§ 60.9, 196 (West 2004); Or. Rev. Stat. § 133.310 (2003); 23 Pa. Cons. Stat. § 6113 (West 2001); R.I. Gen. Laws § 12-29-3 (2002); S.C. Code Ann. § 16-25-70 (Law. Co-op. 2003);

one, including Colorado — require arrest upon violation.[16] In addition, most states, again including Colorado, and the

S.D. Codified Laws § 23A-3-2.1 (Michie 1998 & Supp. 2003); Tenn. Code Ann. § 36-3-611 (2001); Tex. Crim. Proc. Code Ann. § 14.03 (Vernon Supp. 2004-2005); Utah Code Ann. § 77-36-2.4 (2003); Vt. Stat. Ann. tit. 15, § 1108 (2002); Va. Code Ann. § 19.2-81.3 (Michie 2004); Wash. Rev. Code §§ 10.31.100, 26.50.110 (2004); W. Va. Code Ann. § 48-27-1001 (Michie 2004); Wis. Stat. Ann. §§ 813.12 – .125 (West Supp. 2004); Wyo. Stat. Ann. § 7-20-102 (Michie 2003).

[16] Alaska Stat. § 18.65.530(a) (Michie 2004) ("a peace officer . . . shall arrest"); Cal. Penal Code § 836(c)(1) (Deering Supp. 2005) ("the officer shall . . . make a lawful arrest"); Colo. Rev. Stat. Ann. § 18-6-803.5(3)(b) (2004) ("[a] peace officer shall arrest"); Del. Code. Ann. tit. 10 § 1046 (Supp. 2004) ("[a] law enforcement officer shall arrest"); Iowa Code § 236.11 (2003); ("the peace officer shall take the person into custody"); Ky. Rev. Stat. Ann. § 403.760 (LEXIS through 2004 Extraordinary Session) ("Any peace officer . . . shall arrest the respondent without a warrant for violation of a protective order[.]"); Me. Rev. Stat. Ann. tit. 19-A, § 4012(5) (West 1998) ("[T]hat enforcement officer shall arrest and take into custody the alleged offender."); Md. Code Ann., Cts. & Jud. Proc. § 3-1508 ("[a] law enforcement officer shall arrest"); Md. Code Ann., Fam. Law § 4-509 (Supp. 2003) ("an officer shall arrest"); Mass. Gen. Laws ch. 209A § 6 (2002) ("The officer shall take . . . the following action: . . . arrest any person a law officer witnesses or has probable cause to believe has violated a temporary or permanent vacate, restraining, or no-contact order or judgment[.]"); Minn. Stat. § 518B.01, subd. 14(e) (2002) ("[a] peace officer shall arrest"); Miss. Code Ann. § 99-3-7(3)(a) (Supp. 2004) ("[a]ny law enforcement officer shall arrest"); Mo. Ann. Stat. § 455.085(2) (West 2003) ("the officer shall arrest the offending party-respondent"); Neb. Rev. Stat. § 42-928 (1998) ("[a] peace officer shall with or without a warrant arrest"); Nev. Rev. Stat. Ann. § 33.070 (2003) ("Every . . . order must include a provision ordering any law enforcement officer to arrest an adverse party[.]"); N.H. Rev. Stat. Ann. § 173-B:9 (2001 & Supp. 2004) ("[p]eace officers shall arrest the defendant"); N.J. Stat. Ann. § 2C:25-31 (West Supp. 2004) ("[T]he defendant shall be arrested and taken into custody by a law enforcement officer[.]"); N.M. Stat. Ann. § 40-13-6 (Michie 1999) ("[a] peace officer shall arrest"); N.Y. Crim. Proc. Law § 140.10 (McKinney 2004 & Supp. 2005) ("a police officer shall arrest"); N.C. Gen. Stat. § 50B-4.1 (2003) ("[a] law enforcement officer shall arrest"); N.D. Cent. Code § 14-07.1-11 (2004) ("[T]he law enforcement officer shall presume that arresting the person is the appropriate response."); Or. Rev. Stat. §

federal government have developed protective order databases to promote easier verification of orders by law enforcement officers.[17] Underscoring this policy of

133.310 (2003) ("[a] peace officer shall arrest"); 23 Pa. Cons. Stat. § 6113 (West 2001) ("[a] police officer shall arrest"); R.I. Gen. Laws § 12-29-3 (2002) ("the officer shall arrest"); S.C. Code Ann. § 16-25-70 (Law Co-op. 2003) ("[a] law enforcement officer must arrest" when physical injury is manifested); S.D. Codified Laws § 23A-3-2.1 (Michie 1998 & Supp. 2003) ("a law enforcement officer shall arrest"); Tenn. Code Ann. § 36-3-611 (2001) ("[a]ny law enforcement officer shall arrest the respondent"); Tex. Crim. Proc. Code Ann. § 14.03 (Vernon 1977 & Supp. 2004-2005) ("A peace officer shall arrest . . . if the offense is committed in the presence of the peace officer."); Utah Code Ann. § 77-36-2.4 (2003) ("[a] law enforcement officer shall, without a warrant, arrest"); Wash. Rev. Code § 10.31.100 (2004) ("[a] peace officer shall arrest"), § 26.50.110 (same); W. Va. Code Ann. § 48-27-1001 (Michie 2004) ("a law enforcement officer shall immediately arrest the respondent"); Wis. Stat. Ann. § 813.12 (West Supp. 2004) ("[a] law enforcement officer shall arrest"), § 813.125 ("[a] law enforcement officer shall arrest").

[17] 28 U.S.C. § 534(2) (2004); Ala. Code §§ 30-5B-1 to -10 (Supp. 2004); Alaska Stat. § 18.65.540 (Michie 2004); Ariz. Rev. Stat. § 13-3602(L) (West 2001 & Supp. 2004) (local registry); Ark. Code Ann. § 12-12-215 (Michie 2003); Cal. Fam. Code § 6380 (Deering 2005); Colo. Rev. Stat. § 18-6-803.7 (2004); Conn. Gen. Stat. Ann. § 51-5c (2003); Del. Code Ann. tit. 10, § 1046(b) (1999); D.C. Code Ann.§ 16-1044 (Supp. 2004); Fla. Stat. ch. 741.30(8)(b) (2004); Ga. Code Ann. § 19-13-52 (2004); Haw. Rev. Stat. § 586-10 (Supp. 2003); Idaho Code § 39-6311(2)(b) (Michie Supp. 2001); 750 Ill. Comp. Stat. 60/302 (2002); Ind. Code Ann. §§ 5-2-9-5, 34-26-5-18 (Michie Supp. 2004); Kan. Stat. Ann. § 60-3112 (Supp. 2003); Ky. Rev. Stat. Ann. §§ 403.737, 770 (LEXIS through 2004 Extraordinary Session); La. Rev. Stat. § 46:2136.2 (West Supp. 2005); Me. Rev. Stat. Ann. tit. 16, § 631(4-B) (West Supp. 2004); Md. Code Ann. Crim. Proc. § 2-305 (2005); Mass. Gen. Laws ch. 209A § 5 (2002); Mich. Comp. Laws Ann. § 600.2950(10, 17, 20) (West Supp. 2004); Minn. Stat. § 518B.01, subd. 13 (2002); Mo. Ann. Stat. § 455.040(3) (West 2003); Mont. Code Ann. § 40-15-303 (2003); Nev. Rev. Stat. §§ 33.095, 179A.350 (2003); N.H. Rev. Stat. Ann. § 173-B:4 IX(b) (2001); N.J. Stat. Ann. §§ 2C:34 (West Supp. 2004); N.Y. Exec. Law § 221-a (McKinney 2004 & Supp. 2005); N.C. Gen. Stat. § 50B-3(d) (2003); N.D. Cent. Code § 12-60-23 (2004); Ohio Rev. Code Ann. §

enforcement, every state has full faith and credit provisions requiring enforcement of orders issued in foreign states.[18]

3113.31(F)(2) (West 2000) (local registry); Or. Rev. Stat. § 107.720 (2003); 23 Pa. Cons. Stat. §§ 6105(e), 6109(b) (West 2001); R.I. Gen. Laws § 12-29-8.1 (2002); S.D. Codified Laws §§ 25-10-12 (Michie 1999), 12.2 (Michie Supp. 2003); Tenn. Code Ann. § 36-3-609 (2004); Tex. Fam. Code Ann. § 85.042(a) (Vernon 2002), Tex. Gov't Code Ann. § 411.042(b)(6) (Vernon Supp. 2004-2005); Utah Code Ann. §§ 30-6-8 (1998), 53-10-208.1 (2002); Vt. Stat. Ann. tit. 15 § 1107(b) (2002); Va. Code Ann. § 16.1-279.1(B) (Michie 2003); Wash. Rev. Code §§ 26.50.100 – .160 (2004); W. Va. Code Ann. § 48-27-802 (Michie 2004); Wis. Stat. Ann. § 813.12(6)(c) (West Supp. 2004); Wyo. Stat. Ann. § 35-21-110 (Michie 2003).

[18] 18 USC §§ 2265 – 2266; Ala. Code § 30-5-4(h), §§ 30-5B-3 to -5 (1998 & Supp. 2004); Alaska Stat. § 18.66.140(b) (Michie 2004); Ariz. Rev. Stat. § 13-3602(R) (West 2001 & Supp. 2004); Ark. Code Ann. §§ 9-15-302, 5-53-134(a)(2) (Michie Supp. 2003); Cal. Fam. Code §§ 6401 – 6403 (Deering 2005); Colo. Rev. Stat. § 13-14-104 (2004); Conn. Gen. Stat. § 46b-15a (2003), *as amended*, P.A. 03-98, 2003 Conn. Legis. Serv. (West); Del. Code Ann. Tit. 10 §§ 1049B & 1049C (Supp. 2004); D.C. Code Ann. §§ 16-1041 to -1043 (Supp. 2004); Fla. Stat. ch. 741.315 (2004); Ga. Code Ann. § 19-13-54 (2004); Haw. Rev. Stat. §§ 586-21, -22, -24 (Supp. 2003); Idaho Code §39-6306A (Michie Supp. 2001); 725 Ill. Comp. Stat. 5/112A-23, 750 Ill. Comp. Stat. 60/223 (Supp. 2003); Ind. Code Ann. § 34-26-5-17 (Michie Supp. 2004), § 35-46-1-20 (Michie 2004); Iowa Code § 236.19 (2003); Kan. Stat. Ann. § 21-3843 (Supp. 2003); Ky. Rev. Stat. Ann. §§ 403.7521, .7527, .7529 (LEXIS through 2004 Extraordinary Session); La. Rev. Stat. Ann. §§ 14:79(A)(2), 46:2136(C) (West Supp. 2005); Me. Rev. Stat. Ann. tit. 15, § 321(6), tit. 19-A, § 4011 (West 1998); Md. Code Ann., Fam. Law § 4-508.1 (Supp. 2003); Mass. Gen. Laws ch. 209A § 5A (2002); Mich. Comp. Laws Ann. §§ 600.2950j – .2950*l* (West Supp. 2004); Minn. Stat. § 518B.01, subd. 14 (2002); Miss. Code Ann. §§ 93-21-13, -16 (2004); Mo. Ann. Stat. § 455.067 (West 2003); Mont. Code Ann. §§ 40-15-402 to -404 (2003); Neb. Rev. Stat. §§ 42-933 to -935 (Supp. 2003); Nev. Rev. Stat. § 33.085 (2003); N.H. Rev. Stat. Ann. § 173-B:13 (2001), *amended by* 2001 N.H. Laws 189; N.J. Division of Criminal Justice, Office of the Attorney General, *Guidelines for the Enforcement of Out-of-State Restraining Orders or Orders of Protection in Domestic Violence Cases* (revised Sept. 2000), *at* http://www.njdcj.org/agguide/9dvout0.pdf; N.M. Stat. Ann. § 40-13-6(d) (Michie 1999); N.Y. Fam. Ct. Act § 154-e (McKinney Supp. 2005); N.C. Gen. Stat. § 50B-4 (2003); N.D. Cent. Code §§ 14-

These states have further determined that judges should determine whether a perpetrator is dangerous to his victim when deciding whether to grant a protective order, and that law enforcement need only decide if he has violated the court's order.[19]

The codification of criminal enforcement provisions in nearly all protective order statutes reflects the importance state legislatures place on using protective orders to place a barrier between the victim and her abuser in the form of arrest once the order has been violated but before further violence occurs.[20] Whether the statutes in these states require

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07.4-01 to -03 (2004); Ohio Rev. Code Ann. § 2919.272 (West Supp. 2004); Okla. Stat. Ann. tit. 22, § 60.12 (West 2004); Or. Rev. Stat. § 24.190 (2003); 23 Pa. Cons. Stat. §§ 6104, 6105(h) (West 2001); R.I. Gen. Laws § 12-29-1.1 (2002); S.C. Code Ann. § 20-4-140 (Law. Co-op. Supp. 2004); S.D. Codified Laws § 25-10-12.1 (Michie Supp. 2003); Tenn. Code Ann. § 36-3-622 (2001); Tex. Fam. Code Ann. §§ 88.002 – .004 (Vernon 2002); Utah Code Ann. § 30-6-12 (1998); Vt. Stat. Ann. tit. 15, § 1108 (2002); Va. Code Ann. § 16.1-279.1(E) (Michie 2003); Wash. Rev. Code §§ 26.52.010, .020, .070 (2004); W. Va. Code Ann. §§ 48-27-310, 48-28-2 to -4 (Michie 2004); Wis. Stat. Ann. § 806.247 (West Supp. 2004); Wyo. Stat. Ann. § 35-21-109 (Michie 2003).

[19] Judges are in a unique and appropriate position to make the determination the legislatures envision. The National Council of Juvenile and Family Court judges issued a Model Code on Domestic and Family Violence in 1994. The enforcement provisions of this code are very similar to the enforcement provisions of the Colorado statutes. As part of the commentary to the section, the drafters of the model code state: "Research suggests that perpetrators are best deterred by swift and certain sanctions. Further support for the mandate stems from the conclusion of experts in the field that victims may refrain from seeking justice system intervention if perpetrators violate orders with impunity." Model Code on Dom. & Fam. Violence § 206 commentary (Nat'l Council Juv. & Fam. Ct. Judges 1994).

[20] Contrary to the suggestion of the Solicitor General as *amicus*, the existence of civil remedies does not, and should not, preclude or limit the criminal enforcement that the Colorado legislature has chosen to mandate. *See* Brief of *Amicus Curiae* United States Supporting Petitioner

or merely permit arrest upon violation, enforcement is considered an effective tool in combating domestic violence.[21] Strong enforcement of protective orders is essential to safeguarding battered women and their children.

B. The Federal Government Supports The Use Of Protective Orders As Contemplated By Colorado And A Majority Of The States

Like the states, the federal government has recognized the importance of strong protective order enforcement. The groundbreaking Violence Against Women Act of 1994 ("VAWA")[22] signaled Congress' recognition of domestic violence as a national problem. When considering VAWA, Congress heard ample evidence that protective orders are rendered ineffective by non-enforcement.[23] The legislative

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at 25, *Town of Castle Rock v. Gonzales* (No. 04-278). While civil remedies are important, a mandate of criminal enforcement places a physical barrier, in the form of arrest, between the victim and her abuser, something that a civil remedy cannot provide. *See* Colo. Rev. Stat. § 18-6-803.5 ("The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station[.]").

[21] In addition to codifying strict enforcement of protective orders, many jurisdictions have established a form of specialized domestic violence courts, intending to create an area of expertise among judges and standardize court response to domestic violence cases. *See generally* Julie A. Helling, *Specialized Criminal Domestic Violence Courts*, Violence Against Women Online Resources (no publication date), *at* http://www.vaw.umn.edu/documents/helling/helling.pdf. Even in states without specialized courts, special attention has been paid to training judges on domestic violence and in the handling of protective orders and enforcement. *See generally id.*

[22] VAWA, Pub. L. No. 103-322, Title IV, 108 Stat. 1902 (codified in Titles 8, 18, and 42 U.S.C.), *reauthorized by* Pub.L. 106-386, Div. B, Title !, §§ 1105, 1106, Title II, § 1209, Title IV, §§ 1401(b), 1407, 114 Stat. 1494, 1497, 1513, 1517 (2000).

[23] *See generally* S. Rep. No. 103-138 (1993); H.R. Rep. No. 103-395 (1993); S. Rep. No. 102-197 (1991); S. Rep. No. 101-545 (1990).

history of VAWA is replete with findings by Congress relating to the potential of protective orders to help battered women.[24] Through grants to states and local communities, Congress provides additional resources to help alleviate the burden of domestic violence complaints on police and prosecutors.[25] As a result of its investigations and work on this issue, Congress decided that any "burden" imposed on law enforcement by policies requiring enforcement of protective orders was one worth shouldering to protect victims of domestic violence and their children.[26]

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[24] *E.g.*, S. Rep. No. 103-138, § I (VAWA intended to give victims "the assurance that their attackers will be prosecuted"), § III(A)(2) ("[T]itle II, recognizing the potency of protective orders as a remedy for domestic violence, closes a major loophole by requiring that each State honor the protective orders issued by other States."); S. Rep. No. 101-545 § III(Title II)(A)(3) (discussing benefits of pro-arrest policies and of civil protection orders, noting "novel legal remedies, such as the civil protection order, may suffer because of 'widespread lack of enforcement'").

[25] *See* S. Rep. No. 101-545 at 62.

[26] VAWA also established grants to encourage arrest policies and enforcement of protection orders, authorized at $65 million annually since VAWA's passage. *See* 42 U.S.C. § 3796hh ("The Attorney General may make grants . . . for the following purposes: (1) to implement mandatory arrest or proarrest programs and policies in police departments, *including mandatory arrest programs and policies for protection order violations*.") (emphasis added); *see also* Senator Joseph R. Biden, Jr., Subcommittee on Crime, Correction & Victims' Rights, *Ten Years of Extraordinary Progress: The Violence Against Women Act* 22-24 (2004) [hereinafter "Biden Report"]. VAWA also mandated the enforcement of protective orders across state lines, 18 U.S.C. § 2265 ("Any protection order issued...shall be accorded full faith and credit by the court of another State or Indian tribe . . . and enforced as if it were the order of the enforcing State or tribe."); created federal crimes for crossing state lines to commit domestic violence, § 2261, and for the interstate violation of protective orders, § 2262; and made restrained persons one of only nine categories of Americans banned from possessing firearms, § 922(g)(8).

The United States Department of Justice ("DOJ") has also taken the position that protective orders are a valuable tool, and that enforcement of orders is critical to the safety of women. In the application for VAWA's Arrest program grants, states seeking federal funds are informed that they must demonstrate commitment to protective order and other domestic violence law enforcement to qualify.[27] And in 2001, DOJ disseminated its detailed "Toolkit to End Violence Against Women" which addresses protective orders in Chapter 3.[28] The Toolkit encourages legislators, judges, court administrators, advocates and prosecutors to take specific concrete steps to increase enforcement of protective orders.

II. FAILING TO ENFORCE PROTECTIVE ORDERS INCREASES THE RISK OF VIOLENCE AND REDUCES THE LIKELIHOOD THAT ORDERS WILL BE SOUGHT

Jessica Gonzales' story is not unique. Every day, victims

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[27] *See* Office of Violence Against Women, U.S. Dep't of Justice, *Grants to Encourage Arrest Policies and Enforcement of Protection Orders Program*, *at* http://www.ojp.usdoj.gov/vawo/arrest_grant_desc.htm. The Arrest program is intended to support programs that implement mandatory arrest programs and policies for enforcement of protection order violations, and priority given to applications which demonstrate a commitment to strong enforcement of laws, including protection orders from other jurisdictions. *See id.*

[28] *See* Office of Violence Against Women, U.S. Dep't of Justice, *Chapter 3. Enhancing the Response of the Justice System: Civil Remedies*, *at* http://toolkit.ncjrs.org/vawo_3.html; *see also* Open Letter from Attorney General and Secretary of Health and Human Services (undated), *at* http://toolkit.ncjrs.org/files/393409.pdf ("The recommendations and information contained in the *Toolkit* were the result of input from leaders and practitioners around the country with expertise in domestic violence . . . . Input was also provided by key individuals working in the areas of criminal justice . . . .").

of domestic violence are physically and emotionally harmed or even killed by their abusers. The statistics are daunting:

- Nearly one in every three women experiences at least one physical assault by a partner during adulthood.[29]

- On average, more than three women are murdered by their husbands or boyfriends in this country every day.[30]

- In Ms. Gonzales' home state of Colorado, the year 2003 ended with 51 domestic violence-related fatalities, three of which were children.[31]

- Conservative estimates suggest that at least 30% of batterers also abuse their children.[32]

Like Ms. Gonzales, many of those victims obtained civil protective orders against their abusers from state courts. But as the DOJ has stated, protective orders "are effective only when the restrained party is convinced the order will be enforced."[33]

Vigilant enforcement of protective orders can save already victimized women from further abuse or even death.

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[29] Biden Report, *supra*, at 30.

[30] *Id.*

[31] Colorado Coalition Against Domestic Violence, *Domestic Violence Facts and Statistics* (citing Project Safeguard April 2004), *at* http://www.ccadv.org/facts.htm.

[32] Colorado Coalition Against Domestic Violence, *Law Enforcement Training Manual* § 1-4 (2d ed. 2003).

[33] Office for Victims of Crime, U.S. Dep't of Justice, Legal Series Bulletin #4, *Enforcement of Protective Orders* 1 (2002) [hereinafter "*Enforcement of Protective Orders*"].

While other factors such as criminal record and level of previous violence contribute to an abuser's likelihood to re-abuse his victim, a comprehensive study by the National Center for State Courts found that in Denver, where 87% of protective order violators were arrested, only 2% of women experienced re-abuse within six months of obtaining the order.[34] By comparison, in Delaware and the District of Columbia, where police arrested protective order violators only 55% and 41% of the time, respectively, 10.9% and 11.9% of women reported re-abuse.[35] When protective orders are properly enforced, law enforcement steps in after seemingly harmless conduct violates a judge's mandate, but *before* abusers have the opportunity to harm their victims. Each failure to enforce protective orders as intended by legislatures and courts gives an abuser an unnecessary opportunity to harm his victim. That is precisely the failure that cost Rebecca, Katheryn and Leslie Gonzales their lives. And it is a failure that will continue to produce such horrific results if police departments can deny the right to enforcement without due process in a systemic pattern and practice like that encountered by Jessica Gonzales.[36]

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[34] *See* Susan L. Keilitz et al., National Ctr. for State Courts, *Civil Protection Orders: The Benefits and Limitations for Victims of Domestic Violence* 38, 61-62 (1997).

[35] *See id.*

[36] On a motion to dismiss, the Court must take the facts as alleged and give the non-moving party the benefit of every inference from those facts. *See Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984). Dismissal is not appropriate unless "no relief could be granted under any set of facts that could be proved consistent with the allegations." *Swierkiewicz v. Sorema N.A.*, 534 U.S. 506, 514 (2002); *accord Conley v. Gibson*, 355 U.S. 41, 45-46 (1957) (complaint should not be dismissed unless it appears "beyond doubt that the plaintiff can prove no set of facts in support of his claim"). Petitioner's attempts to supplement the record, or offer explanations or *post hoc* rationalizations for police conduct, are contrary to law.

A. Protective Orders Are Intended To Curtail Additional Violence

Protective orders and protective order enforcement statutes like Colorado's are an integral part of an effort to combat the devastating impact of domestic violence. While exposition of the full impact of domestic violence is not possible here, domestic violence "permeates every aspect of women's lives. It alters where women live, work and study as they try to be safe by staying within certain prescribed bounds."[37] As President George W. Bush has recognized, "approximately one-third of women who are murdered each year are killed by their current or former husband or partner."[38] And "[c]hildren who are subjected to domestic violence too often grow up to inflict violence on others."[39]

Aside from the initial physical injuries caused by violence, chronic domestic violence is associated with poor health, and can manifest itself as stress-related mental and physical health problems as long as a year after abuse has occurred.[40] The resulting impact on the labor force is well documented; abused women miss more work than women who are not abused, particularly in the days immediately following physical abuse.[41] Society bears the economic brunt

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[37] *Violence Against Women: Victims of the System Before the Senate Comm. on the Judiciary*, 102d Congress 253 (1991) (statement of Dr. Leslie Wolfe).

[38] Proclamation No. 7717, 68 Fed. Reg. 59,079 (Oct. 8, 2003).

[39] *Id.*

[40] *See* Stephanie Riger & Susan Staggs, *The Impact of Intimate Partner Violence on Women's Labor Force Participation* 1 (2004) (submitted to the Nat'l Institute of Justice), http://www.ncjrs.org/pdffiles1/nij/grants/207143.pdf.

[41] The Centers for Disease Control estimates productivity losses resulting from domestic violence at $1.8 billion annually, as victims lose a total of nearly eight million days of paid work. *See* Nat'l Ctr. for Injury

of this epidemic, as the Centers for Disease Control reports that the health-related costs of domestic violence approach $4.1 billion every year.[42]

Civil protective orders can mitigate against future violence when properly issued and enforced. The orders are issued by general purpose or family courts, and rely on the court's civil, as opposed to criminal, powers.[43] As a result, they are designed to prevent future abuse, rather than punish for past abuse.[44] While specific procedures vary from state to state, most states allow victims to seek temporary orders on an *ex parte* basis. These orders are only effective for a short time, and permanent orders — usually lasting for six months to three years — are only entered after the abuser has an opportunity to be heard by the court.[45] Protective orders are not handed to victims as if they were receipts merely for showing up at the courthouse; victims must make a showing

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Prevention & Control, Ctrs. for Disease Control, *Costs of Intimate Partner Violence Against Women in the United States* 26, 32 (2003).

[42] *Id.* at 2.

[43] *E.g.*, Colo. Rev. Stat.§ 13-14-102. Civil protective orders were first devised in the mid 1970s to safeguard victims of domestic violence because the criminal justice system had refused to apply existing criminal laws to domestic situations. Despite increased involvement of the criminal justice system in domestic violence situations, civil protective orders remain the primary means of judicial intervention against abusers in many jurisdictions. Andrew R. Klein, *The Criminal Justice Response to Domestic Violence* 67-68 (2004).

[44] Eve S. Buzawa & Carl G. Buzawa, *Domestic Violence: The Criminal Justice Response* 235 (3d ed. 2003) (citing Finn, 1989); *see also United States v. Harrison*, 461 F.2d 1209, 1211 (D.C. Cir. 1972) (recognizing that a civil protection order is "in the nature of an injunction to restrain future actions," not a "judgment that punishes the individual for a past crime").

[45] *See, e.g.*, Klein, *supra*, at 69.

of need for protection from a specific abuser, and convince a judge that the order should issue.[46]

Battered women do not seek protective orders lightly. Most victims only seek court intervention after suffering extreme abuse. One study revealed that 68% of women seeking a protective order had been victimized by violence on other past occasions.[47] The majority of women who seek temporary protection orders complain of serious abuse including physical assault, threats to kill or harm, or attempts or threats to take children.[48] Despite the magnitude of harm suffered by these victims, another study found that while 10% of its participants sought protective orders after only a week, and 15% had suffered for one to two years, nearly 25% had been abused for more than five years before finally seeking protection.[49]

Although protective orders are no panacea, battered women report feeling empowered by receiving them. One study found that victims interviewed one and six months after obtaining a protective order perceived that their well

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[46] Contrary to the suggestion of Petitioner and some *amici* that Jessica Gonzales received nothing more than a pre-printed, standardized form protection order, Ms. Gonzales' order was issued by the court after Simon Gonzales had an opportunity to be heard by the judge. *See Gonzales*, 366 F.3d at 1097 (citing Aplt. Appx. at 29, 30). And it was that opportunity that led to the initial temporary order's modification to include provisions detailing Mr. Gonzales' parenting time with his daughters. *See id.*

[47] *See* Buzawa & Buzawa, *supra*, at 234 (citing Carlson, Harris & Holden 1999).

[48] *See* Adele Harrell & Barbara E. Smith, *Effects of Restraining Orders on Domestic Violence Victims, in Do Arrests & Restraining Orders Work?* 214, 216-17 (Eve S. Buzawa & Carl G. Buzawa, eds. 1996).

[49] *See* Keilitz, *supra*, at 90.

being had been positively affected.[50] Another study found that most women felt that their protective order was helpful in documenting the abuse, and 79% of those women reported that the order was helpful in sending her abuser a message that his actions were wrong.[51] Perhaps most importantly, a recent study published in the Journal of the American Medical Association found that battered women who obtained permanent protective orders experienced an 80% reduction in police-reported physical violence in the year following a violent episode.[52]

B. Mandatory Enforcement Of Protective Orders Reduces Subsequent Violence

The DOJ has stated the issue quite succinctly: "Unless protective orders are enforced, they can prove harmful to victims by creating a false sense of security."[53] The DOJ has quite plainly called for "[u]nequivocal, standardized enforcement of court orders."[54] State lawmakers echo these admonitions.[55] Unfortunately, victims are frequently lulled

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[50] *See* Keilitz, *supra*, at 37-38.

[51] *See* Harrell & Smith, *supra*, at 218.

[52] Victoria Holt et al., *Civil Protection Orders and Risk of Subsequent Police-Reported Violence*, J. Am. Med. Ass'n 589, 593 (2002).

[53] *Enforcement of Protective Orders*, *supra*, at 5.

[54] *Id.* at 1.

[55] *E.g.*, Colo. Rev. Stat. § 13-14-102(1) ("The general assembly hereby finds that the issuance and enforcement of protection orders are of paramount importance in the state of Colorado because protection orders promote safety, reduce violence, and prevent serious harm and death."); Me. Rev. Stat. Ann. tit. 19-A, § 4001 (purposes of the Maine protective order statutory scheme include "provid[ing] protection by . . . diligently enforcing court orders that prohibit abuse" and "clarify[ing] the responsibilities and support the efforts of law enforcement officers, prosecutors and judicial officers to provide immediate, effective assistance and protection for victims of abuse and to recognize the crucial

into dangerous complacency, assuming the police will protect them if their abuser violates the order. A protective order may therefore actually enhance the danger it was designed to mitigate if it is not enforced.

Abusers intent on abusing may not be stopped by a piece of paper[56] but they will be stopped if police arrest them for violating the protective order during the crucial time period between the time of violation — often by contacting the victim on the phone or by coming within a certain distance of her — and the time that they get close enough to commit violence. The importance of enforcing protective orders as intended therefore cannot be overstated. As alleged by Ms. Gonzales, and tragically evident in the deaths of her three young daughters, there is a very real risk of police under-enforcement of protective orders. *Cf. Hamdi v. Rumsfeld*, 542 U.S. __, 124 S.Ct. 2633, 2647 (2004) (O'Connor, J., plurality) (noting importance of procedural due process to protect against mistaken deprivation of protected interest when the risks and consequences of mistaken deprivation are great).

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role of law enforcement officers in preventing further incidents of abuse and in assisting the victims of abuse"); N.J. Stat. Ann. § 2C:25-18 ("It is the intent of this Legislature to stress that the primary duty of a law enforcement officer when responding to a domestic violence call is to enforce the laws allegedly violated and to protect the victim. . . . It is further intended that the official response to domestic violence shall communicate the attitude that violent behavior will not be excused or tolerated, and shall make clear the fact that the existing criminal laws and civil remedies created under this act will be enforced without regard to the fact that the violence grows out of a domestic situation.").

[56] As Judge Timothy Tower tells victims in his San Diego courtroom, "Look, this piece of paper is not bulletproof, and it's not knife-proof." Mark Sauer, *Paper Weight: In Most Abuse Cases, Simple Restraining Orders Have a Positive Impact, but Sometimes They Trigger Violent Rage*, San Diego Union-Tribune, Jan. 18, 2004, at E1.

Separation frequently heightens the risk of injury or death in an abusive relationship, a risk that can be alleviated only by issuance of a protective order followed by appropriate law enforcement intervention. Abusers often react violently to the issuance of a protective order barring them from contact with their victims, as well as to other forms of relationship termination. Studies have shown that murders of women often follow a recent attempt at or completion of separation by the victim from the abuser.[57] Studies have also shown that men who resist entry of a protective order or attempt to keep custody of children are far more likely to re-abuse.[58] News accounts of murder or serious abuse soon after an abuser is served with a protective order are all too familiar.

The case of Bill Hoffine, who sought out and murdered his fourteen-year old son soon after being served with a restraining order obtained by the boy's mother, is tragically similar to that of Jessica Gonzales.[59] Christian Walker killed his 17-year old girlfriend Maureen McConahan just weeks after she obtained a protective order against him, and after threatening that she would "have it a lot worse" if she didn't cancel the order.[60] This "separation violence" phenomenon highlights the need for enforcement of protective orders before the situation turns violent. It is unclear whether intervention would have saved these two victims, but where an abuser reacts violently to receiving an order, and police fail to respond to a victim's initial call for help, the danger of serious harm to the victim can only increase. If abusers see

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[57] *See* Carol E. Jordan, *Intimate Partner Violence and the Justice System*, J. Interpersonal Violence 1412, 1415-16 (2004) (collecting sources).

[58] Buzawa & Buzawa, *supra*, at 243 (citing Harrell et al. 1993).

[59] Sauer, *supra*, at E1.

[60] Glenn Puit, *Orders Sometimes Not So Protective*, Las Vegas Review-Journal, Feb. 8, 1998, at 1B.

that the authorities do not take protective orders seriously, they are far more likely to adopt the same attitude. As other *amici* in support of Respondent explore in more detail, some women, like Jessica Gonzales, are unable to take certain safety measures, such as moving, because they are required to make their children available to their abuser pursuant to custody arrangements.

C. Failure To Enforce Protective Orders Enhances The Likelihood Of Additional Violence

Leading domestic violence researchers recently concluded after an exhaustive review of the data that protective orders' "ultimate efficacy is often greatly compromised when police fail to arrest or prosecutors refuse to prosecute restraining order violations."[61] A 2002 study commissioned by the DOJ found that domestic violence victims believed that protective orders were not an effective safety measure because of lack of enforcement.[62] It is not hard to find stories that show why:

- Adell Swiggett's husband killed her thirty minutes after police left the area despite being told he had violated a protective order by entering her home.[63]

- Five-year-old Brian Brown's father killed him with a shotgun after police failed to arrest him for violating a protective order prohibiting possession of a firearm

[61] Buzawa & Buzawa, *supra*, at 260.

[62] *See* Cassandra Archer et al., U.S. Dep't of Justice, *National Evaluation of the Grants to Encourage Arrest Policies Program: Final Report* 5 (2002).

[63] *See Mastroianni v. County of Suffolk*, 91 N.Y.2d 198, 201-02 (1997).

when they pulled him over for drunk driving and found the shotgun in his vehicle.[64]

- Toni Alicea's estranged husband stabbed her repeatedly in front of her 3-year old daughter less than three weeks after police failed to arrest him for violating a permanent protective order by stalking her, threatening her, and calling and emailing her.[65]

The improper and unauthorized exercise of police discretion leads to tragedy.

Judges issue protective orders after reviewing the facts and determining that an abuser is a danger to his victim. Permanent orders like that given to Jessica Gonzales are issued after the abuser has an opportunity to be heard in court.[66] A judge has already made the determination that the victim is at risk if the abuser does that which the order prohibits - regardless of whether the prohibited activity itself may seem otherwise innocuous. Police need only determine whether the abuser has violated the court-issued order, and arrest him if he has. Thus when an abuser is prohibited from coming within 100 feet of his victim, he should be arrested if he is within 99 feet of her. Far from the "absurd result" petitioner claims,[67] this is precisely the goal of protective orders and protective order enforcement statutes, because a

[64] *See* Klein, *supra*, at 76.

[65] Gina Tenorio, *Spousal Violence Tackled*, San Bernadino Sun, Dec. 30, 2004; Joe Nelson, *Deputies Kill Husband Hours After Wife Killed in Highland; Woman Had Restraining Order Against Estranged Mate*, San Bernardino Sun, Jun. 8, 2004.

[66] Simon Gonzales had an opportunity to be heard in court, and in fact obtained a revised protective order as a result. *See Gonzales*, 366 F.3d at 1097 (citing Aplt. Appx. at 29, 30).

[67] Petitioner's Opening Brief at 28, *Town of Castle Rock v. Gonzales* (No. 04-278).

batterer with hostile intent will not take long to travel 100 feet.

III. CONCLUSION

Colorado has made the judgment that victims are entitled to rely on police enforcement of court-issued protective orders. Petitioner evades and ignores the plain meaning of the statute and order to render the entire public policy at issue potentially dangerous to victims. When the legislature and courts have plainly required full enforcement, a domestic violence protective order creates an entitlement that cannot be taken away without due process. For the foregoing reasons, the decision of the Court of Appeals for the Tenth Circuit must be AFFIRMED.

Respectfully submitted,

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APPENDIX

INTEREST OF *AMICI CURIAE*

The following organizations respectfully submit this brief as *Amici Curiae* in support of the Respondent, and urge the Court to affirm the Tenth Circuit Court of Appeals decision in this case in favor of Jessica Gonzales.

The **National Network to End Domestic Violence (NNEDV)** is a not-for-profit organization incorporated in the District of Columbia in 1995 (www.nnedv.org). A network of state domestic violence coalitions, representing over 2,000 member programs nationally, NNEDV serves as the voice of battered women and their children and those who provide direct services to them. NNEDV is working with states and local communities to establish best practices for issuing and enforcing protection orders and to ensure that they are given full faith and credit from state to state. NNEDV chairs the Crimes and Courts subcommittee of the National Task Force to End Sexual and Domestic Violence Against Women. Along with local, state and national leaders in domestic violence and criminal justice issues, NNEDV is formulating new approaches and innovative legal solutions to ending domestic violence. NNEDV was instrumental to Congressional enactment and eventual implementation of the Violence Against Women Acts of 1994 and 2000 and has played a leading role in drafting the proposed Violence Against Women Act of 2005, including intensive work on the provisions regarding enforcement of protective orders across state lines.

The **National Network to End Domestic Violence Fund (NNEDV Fund)** is a not-for-profit organization incorporated in the District of Columbia in 1996 for the purposes of providing technical assistance, training and

public education to advocates, professionals and individuals who encounter battered women in their work and communities. NNEDV Fund has provided advice and expertise on domestic violence issues affecting battered women and their children to judges, attorneys, educators and state and local welfare, justice system personnel, and others working to end domestic violence. NNEDV Fund provides technical assistance to states as they work with police, judges and prosecutors to enforce protection orders. NNEDV Fund also collaborates with state and national domestic violence, law enforcement and other criminal justice organizations to provide training, outreach and standards for protection orders. NNEDV Fund is the leading national voice on the criminal justice response to victims of domestic violence.

The **Colorado Coalition Against Domestic Violence (CCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. CCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Alabama Coalition Against Domestic Violence (ACADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. ACADV has extensive expertise on the physical, emotional and economic dangers women and their

families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. ACADV has conducted significant training for judges, law enforcement an court clerks on protective orders; has actively sought and advocated for improvements to Alabama's protective order statue; has worked cooperatively with the Alabama Administrative Office of Courts to track protective orders; is currently working with the Alabama Administrative Office of Courts on an innovative on-line application process for protective orders; and has spear-headed a multi-state project to accord full faith and credit to foreign protective orders.

The **Alaska Network on Domestic Violence and Sexual Assault (ANDVSA)** is a non-profit organization representing domestic violence/sexual assault programs and individual battered and formerly battered women. The ANDVSA has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Arizona Coalition Against Domestic Violence (AzCADV)** is a non-profit organization representing domestic violence victims and programs across Arizona. AzCADV has nearly 25 years of experience in assisting victims when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for domestic violence victims who ask for help through a protective order. Protective orders, when properly enforced, can have tremendous value to victims and their families, offering safety and the full power of the court in dealing with violators. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. When there is no consequence for the perpetrator who violates a protective order, the status of the victim and the status of the courts are demeaned and denigrated. AzCADV continuously advocates for improvements to Arizona's protective order statute and the enforcement thereof.

The **Arkansas Coalition Against Domestic Violence (ACADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The ACADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **California Alliance Against Domestic Violence (CAADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The CAADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also witnessed the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. Currently, we are serving on a task force of the Attorney General of California looking at issues related to protective orders and how to strengthen the efficacy of these orders.

The **Connecticut Coalition Against Domestic Violence, Inc. (CCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. CCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protection orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. In Connecticut we have worked diligently with our law

enforcement community to enforce protective orders meant to keep victims and children safe.

The **D.C. Coalition Against Domestic Violence (D.C.C.A.D.V.)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The D.C.C.A.D.V. has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. Our current collaborative project entitled Victim Informed Prosecution has demonstrated the increased efficacy of protection orders when combined with intensive advocacy to enhance the safety and welfare of battered women and their children.

The **Delaware Coalition Against Domestic Violence (DCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The DCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. Delaware's order of protection legislation

provides a broad range of relief for victims of domestic violence and is seen as an effective tool in helping victims attain safety and security in the First State. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

Dwa Fanm is a non-profit organization representing domestic violence survivors. We have extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive impact that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. And we have seen the impact protective orders have had on men, in reducing recidivism and even in making help available.

The **Florida Coalition Against Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Florida Coalition Against Domestic Violence has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. In November of 1997, the Florida

Coalition Against Domestic Violence created a legal clearinghouse of attorneys to represent victims and help them obtain permanent orders of protection. Our efforts to protect domestic violence victims and their children are futile if law enforcement fails to respond to violations of protection orders.

The **Georgia Coalition Against Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Georgia Coalition Against Domestic Violence has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The State of Georgia has legislated that perpetrators who are subject to protective orders, and/or convicted under the Family Violence Act, must complete a twenty-four week batterer intervention program. The Georgia Coalition Against Domestic Violence has five pilot sites working to develop compliance measures to insure compliance with these orders.

The **Hawaii State Coalition Against Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Hawaii State Coalition Against Domestic Violence has extensive expertise on the physical, emotional and economic dangers women and theft families face when they stand up to their batterers in a court of law.

We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. One of our most recent successes is implementing HB 2024, which Governor Linda Lingle signed into law on April 15, 2004. This bill prohibits an offender from transferring ownership of any firearms while a protective order is in effect. It mandates that any firearms owned by the offender be transferred directly to police, instead of a family member of friend. As a result of this new legislation, we look forward to seeing victim safety increase in the years to come.

The **Idaho Coalition Against Sexual and Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Coalition has extensive expertise on the physical, emotional, and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Illinois Coalition Against Domestic Violence (ICADV)** is a nonprofit organization founded in 1978 with particular focus on eliminating domestic abuse in the State of

Illinois, emphasizing women and their dependent children. ICADV also provides, through its 52 member organizations, services to the victims of domestic violence, crisis telephone counseling, temporary shelter for the victim and dependent children, peer and professional counseling, children's services, legal advocacy, assistance obtaining orders of protection, and referral to community resources.

Since 1978, the experience of ICADV has shown that swift criminal justice response to domestic abuse sends a clear message to offenders that their behavior is illegal. Law enforcement departments, the courts, and probation departments all have a role to play in upholding the laws that were designed to keep victims safe and make offenders accountable. The more rapidly violators of the law are dealt with, the less likely it is that violators will become repeat offenders. This is good for the victim and the offenders, and saves vital economic resources for communities because they do not have to spend dollars on recidivist offenders.

An order of protection is a significant tool that may be used to protect a victim and the victim's dependent children from further domestic abuse. However, when the agencies legally mandated to enforce the law do not do their job, the result is all offenders know that violating the law is sanctioned by the criminal justice system and victims are no longer safe. Offenders are much more likely to violate the law repeatedly because they know that their violations are not taken seriously by the only system that is capable of holding them accountable for their illegal acts. The result of the cavalier behavior of some criminal justice systems is the murder of victims and their children.

ICADV has an interest in this case because of our concern that law enforcement needs a clear message that they must follow the law by arresting violators of court protective orders. Without arrest, the criminal justice system

facilitates homicides; with arrest, it practices homicide prevention.

The **Indiana Coalition Against Domestic Violence, Inc.** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Indiana Coalition Against Domestic Violence, Inc. has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The Indiana Coalition Against Domestic Violence has actively participated in the recodification of protective order laws in Indiana to narrow the focus of orders thus increasing safety for battered women and children. Since the recodificiation of protective order laws, domestic violence victims have been granted greater protections by the courts and better enforcement of orders by law enforcement.

The **Iowa Coalition Against Domestic Violence (ICADV)** is a non-profit organization, incorporated in the state of Iowa in 1985. ICADV provides educational and technical assistance to the domestic violence programs across Iowa, and also acts on a statewide and national level to promote public policy and legislative issues on behalf of battered women and their children. ICADV's purpose is to eliminate personal and institutional violence against women through support to programs providing safety and services to battered women and their children. ICADV recognizes that

unequal power contributes to violence against women. Therefore, ICADV advocates social change legal and judicial reform, and the end to all oppression. Protective orders often play an integral role in the ability of a woman to leave safely. If an individual cannot depend on the enforcement of an order, it just acts as another roadblock to compromise her safety and empowers the batterer.

The **Kansas Coalition Against Sexual and Domestic Violence (KCSDV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. KCSDV has extensive expertise on the physical, emotional and economic dangers women and their families face when they challenge their batterers in a court of law. This organization and its member programs work closely with courts, legislators, law enforcement agencies, prosecutors, and the media across the state to provide a more effective network that will protect battered women seeking help through a protective order. KCSDV and its member programs believe that protective orders positively impact the safety of battered women and their children, especially when enforced by trained law enforcement officers and prosecutors. KCSDV also believes that protective orders have a positive effect on perpetrators of domestic violence, including reducing recidivism and providing linkages with batterer intervention services.

KCSDV has participated in a Victim Access Committee convened by the Kansas Supreme Court that will significantly improve access to protective orders in Kansas. Additionally, KCSDV is conducting a statewide safety and accountability assessment of the protective order process in Kansas. This project will help identify where safety for the victim and accountability of the perpetrator are being adequately addressed, and where improvements are needed.

The **Kentucky Domestic Violence Association (KDVA)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The KDVA has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. Specifically, since 1996 the KDVA has worked on multiple projects to increase the enforcement and effectiveness of protective orders across jurisdictional lines.

The **Louisiana Coalition Against Domestic Violence (LCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. LCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. With the successful development of the Louisiana Protection Order Register, administered through the Offices of the Louisiana

Supreme Court, our state has seen tremendous growth both in the number of petitioners as well as the number of arrests for violation of orders. Domestic violence programs across the state report that the protection order is a vital and important option for thousands of battered women seeking safety from their abusers.

The **Maine Coalition to End Domestic Violence (MCEDV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The MCEDV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive impact that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. And we have seen the impact protective orders have had on men, in reducing recidivism and even in making help available.

The **Maryland Network Against Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Maryland Network Against Domestic Violence has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive impact that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including

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reducing recidivism and providing linkages with batterer intervention services.

Jane Doe, Inc. -- Massachusetts Coalition against Sexual Assault and Domestic Violence (JDI) is the statewide membership coalition of nearly 60 domestic violence programs and rape crisis centers. The mission of JDI is to bring together organizations and people committed to ending domestic violence and sexual assault. JDI advocates for responsive public policy, raises awareness, and supports its member organizations to provide comprehensive prevention and intervention services. In keeping with its mission, JDI has an interest in removing barriers that limit or deny a domestic violence survivor's access to safety and justice. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. A study released November 1, 2004, by the Commissioner of Probation found that the intensity of supervision is a critical determinant of success -- 62% of those under probation supervision successfully completed a certified batterer intervention program compared to 30% without probation supervision who completed the program. Offenders who completed a certified batterer intervention program were least likely to have a subsequent arraignment of any kind (47%), an arraignment for a subsequent violent offense (37%) or for a subsequent restraining order violation (17.4%).

JDI is extremely concerned about this case. The Court's answer to both questions affect state law and constitutional safeguards that determine the future of national efforts to provide safety and life saving services to victims of domestic violence.

The **Michigan Coalition Against Domestic and Sexual Violence (MCADSV)** is a nonprofit organization representing domestic violence and sexual assault programs. For over twenty-five years, MCADSV has worked closely with courts, legislators, the police, prosecutors, and the media and others to provide more effective remedies for victims of domestic violence and sexual assault. In the course of our work, we have actively advocated for improving the options for battered women who seek increased safety through obtaining protective orders. We have seen first-hand the positive effects that protective orders have provided in restoring survivors' safety, autonomy and confidence. We have also seen that protective orders can have important effects on perpetrator behavior, including reducing recidivism and providing impetus to seek batterer intervention services.

The **Minnesota Coalition for Battered Women** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Minnesota Coalition for Battered Women has extensive expertise on the physical, emotional and economic dangers women and their children face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective safety net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors, have had on women in restoring their safety and ultimately their lives. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. We are currently collaborating on a project to strengthen arrest, prosecution, enforcement of protection orders, and legal system accountability on two

Native American reservations and in three Minnesota counties.

The **Mississippi Coalition Against Domestic Violence (MCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. MCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive impact that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The failure to enforce a protective order can be catastrophic, as seen in the case before the Court. Experience has taught the MCADV that when a victim of family violence feels their protective order will be enforced, they are more successful at rebuilding their lives than someone who lives in constant fear because they are not confident that the police will act if the protective order is violated. By enforcing orders of protection, law enforcement officers are not only fulfilling their legal obligation, they are also helping to break the cycle of violence. MCADV trains law enforcement officers across the state in an effort to make sure that all victims can feel secure that their protective orders will be enforced.

The **Missouri Coalition Against Domestic Violence (MCADV)**, incorporated in 1980, is a non-profit membership organization of 91 Missouri domestic violence programs that provide services to women and children victimized by domestic violence. MCADV has extensive expertise addressing the physical, emotional and economic

dangers women and their families experience in courts of law when seeking safety and protection, as well as accountability from their batterers. MCADV works closely with courts, legislators, law enforcement, prosecutors, and a wide variety of community services and institutions to provide education, public policy, and adequate and reasonable procedures and processes to achieve effective protections for battered women. A key component of that work is to ensure access to, and enforcement of, Orders of Protection. For more than 20 years, it has been evident through the work of MCADV and all of its member programs that Orders of Protection have dramatically increased the safety and well being of individual battered women and their children. These protective orders also have been effective in providing sanctions and accountability for offenders, while providing crucial tools for those working in law enforcement and the court system. MCADV has worked on statewide projects for more than a decade with the statewide court systems, judicial organizations, law enforcement and prosecution systems to increase the effectiveness of Orders of Protection through training, statutory change, enhancements to Order registries and other data sharing systems between law enforcement and the courts.

The **Montana Coalition Against Domestic and Sexual Violence (Montana Coalition)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Montana Coalition has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective

orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. We are training law enforcement throughout Montana on the importance of Full Faith and Credit as it applies to protective orders. The law enforcement agencies we have trained to date, including tribal and rural law enforcement, have been extremely positive about the importance of this training as it applies to victim and officer safety. We believe our training has had such a positive reception largely due to a recent Montana Supreme Court decision that found a rural Sheriff and the county he represents liable in a negligent death lawsuit filed by the heirs of a woman who was killed by her abusive husband. In that case, the Sheriff and his deputies had been called to the family residence on numerous occasions during which domestic disputes were in process, and which included firearms, and on all occasions the Sheriff and his deputies failed to arrest the alleged perpetrator, confiscate the firearm or provide the alleged victim with notice of her rights under the law. The successful civil lawsuit against the Sheriff and county in this case has served as a "wake-up" call to other law enforcement agencies, emphasizing to them the importance of their duty to protect victims of domestic violence by all legal means available, including the issuance, honoring and enforcement of orders of protection.

The **National Center on Domestic and Sexual Violence (NCDSV)** is a non-profit organization that provides technical assistance and training on issues of domestic and sexual violence. The NCDSV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with many state and national organizations to provide increased knowledge and skills for

better community response to victims and perpetrators of domestic and sexual violence. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Nebraska Domestic Violence Sexual Assault Coalition (NDVSAC)** is a non-profit statewide organization representing Nebraska's 22 domestic violence programs and individual battered and formerly battered women. NDVSAC has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protection order. We have seen first-hand the positive effects that protection orders, the police and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protection orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Nevada Network Against Domestic Violence (NNADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. NNADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for ~~help~~ through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence.

We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. In September 2001, NNADV, in collaboration with the Supreme Court of Nevada and the Office of the Attorney General, published a series of findings and recommendations for improved protection order practice for state courts throughout Nevada. For a period of three months, the Nevada Statewide Court Monitoring Project observed 1113 protection order hearings, devoting more than 211 hours of actual in-court observation time to this task. The data that NNADV collected during the protection order phase of this project reinforced its longstanding belief that effective enforcement of protection orders by law enforcement is crucial for the safety and well being of battered women and their children.

The **New Hampshire Coalition Against Domestic and Sexual Violence** is a nonprofit organization that has represented domestic violence programs and individual battered and formerly battered women since 1977. The New Hampshire Coalition Against Domestic and Sexual Violence has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **New Jersey Coalition for Battered Women (NJCBW)** is a non-profit organization representing domestic violence programs and individual battered and formerly

battered women. The NJCBW has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **New Mexico Coalition Against Domestic Violence (NMCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The NMCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The few nationwide studies that have examined the effectiveness of Orders of Protection have found that they are useful in reducing intimate partner violence. New Mexico has continued to work to increase the effectiveness of protective orders by developing standard forms, training law enforcement, and addressing full faith and credit/comity with the pueblos and tribal lands found within our State borders.

The **New York State Coalition Against Domestic Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The New York State Coalition Against Domestic Violence has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The efficacy and value of orders of protection is widely corroborated in New York State ("NYS") through the findings of the nationally recognized NYS Probation Domestic Violence Project, the NYS Model Policy for Counties (1998), the Final Report to the Governor by the NYS Commission on Domestic Violence Fatalities (1997), the Final Report to the Governor and the Legislature on NYS Mandatory Arrest Provisions (2001), the emphasis on the role of the order of protection in the development of NYS Integrated Domestic Violence Courts, and a demonstrated commitment by the Legislature and related state agencies to work together for necessary enhancements of this vital tool. We emphatically concur with these findings.

The **North Carolina Coalition Against Domestic Violence (NCCADV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. NCCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to

their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **North Dakota Council on Abused Women's Services (NDCAWS)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The NDCAWS has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. We have worked extensively with the North Dakota Supreme Court on developing standardized protection orders, full faith and credit issues, the certification of court advocates, and guidelines for court ordered visitation. We also work intensely with law enforcement statewide on policy issues relating to the enforcement of protection orders.

The **Ohio Domestic Violence Network** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Ohio

Domestic Violence Network has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The Ohio Domestic Violence Network is a member of the Supreme Court of Ohio Domestic Violence Advisory Committee. This Committee has successfully worked with the Supreme Court to develop and implement standardized protection order forms for the courts in Ohio, resulting in enhanced consistency in protection order remedies for victims of domestic violence. In 2003, the domestic relations courts in Ohio issued 18,626 civil protection orders to victims of domestic violence.

The **Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The OCADVSA has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for

perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Oregon Coalition Against Domestic and Sexual Violence** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Oregon Coalition has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. The Oregon Coalition works closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive impact that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the impact protective orders have on men, in reducing recidivism and even in making help available.

The **Pennsylvania Coalition Against Domestic Violence (PCADV)** is a not-for-profit organization incorporated in the Commonwealth of Pennsylvania for the purpose of providing services and advocacy on behalf of victims of domestic violence and their minor children. PCADV is a membership organization of 62 shelters, hotlines, counseling programs, safe home networks, legal advocacy projects, and transitional housing projects for battered women and their dependent children in the Commonwealth. For over 28 years, PCADV has provided training and technical assistance to domestic violence programs, attorneys, the courts, and law enforcement agencies on issues of domestic violence, including matters related to protection orders. PCADV has seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective

orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Rhode Island Coalition Against Domestic Violence (RICADV)** is a non-profit organization representing domestic violence agencies and individual battered and formerly battered women. The RICADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. The RICADV has found that protective orders are a critical safety tool for victims of domestic violence. Last year, 3,445 protective orders were issued in Rhode Island. 69% of these were issued from the State's Family Court and 31% were issued from the District Court.

The **South Carolina Coalition Against Domestic Violence and Sexual Assault (SCCADVASA)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. SCCADVASA has extensive expertise on physical, emotional and economic dangers women and families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police and prosecutors have had on

women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. SCCADVASA has been an active participant in the Passport To Safety project, which has resulted in a complete redesign of the forms now used in South Carolina. This has made it increasingly easier for law enforcement officers to recognize protection orders from any state throughout the Southeast and to enforce them with greater effectiveness.

The **South Dakota Coalition Against Domestic Violence and Sexual Assault (SDCADVSA)** is a non-profit organization representing domestic violence and sexual assault programs in the state of South Dakota and on Indian reservations located within the boundaries of the State of South Dakota. We also directly serve individual battered and formerly battered women. SDCADVSA has extensive expertise on the physical, emotional, and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence, and in providing that most simple, but necessary factor – safety. We have also seen the effects of protective orders issued against perpetrators, including decreases in recidivism and as a means of providing linkages with batterer intervention services. Our organization has dedicated many hours to providing law enforcement with free training on domestic violence, and we have successfully supported legislative changes designed to assist law enforcement to more

efficiently serve and enforce protection orders. We believe and our experience shows that protection orders save lives.

The **Tennessee Coalition Against Domestic and Sexual Violence (Coalition)** is a non-profit organization representing domestic violence and sexual assault programs and individual victims of domestic and sexual violence in Tennessee. The Coalition has extensive expertise on the physical, emotional, and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Texas Council on Family Violence (TCFV)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women in Texas and also operates the National Domestic Violence Hotline (NDVH). In this capacity TCFV has extensive expertise at the state and national level on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with Texas courts, legislators, police departments, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police and prosecutors have had on women in restoring their lives and confidence. Anecdotally, we have witnessed that in nearly all cases the issuance and enforcement of protective orders serves as a deterrent to continued abuse and provides

necessary legal protection for victims of domestic violence and their children in the transition to rebuilding lives free of violence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Utah Domestic Violence Council (UDVC)** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The UDVC has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. Legal Aid Society of Salt Lake, an organization that represents the most victims in obtaining protective orders in the state, surveys clients three months after receiving their protective orders. 89% of Legal Aid Society clients report "no further violence after obtaining" their protective orders. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Vermont Network Against Domestic and Sexual Violence (Vermont Network)** is a non-profit organization representing 16 domestic and sexual violence programs in the state of Vermont. Each of our domestic violence programs is considered an expert in its community on the physical, emotional and economic dangers women and their families face when attempting separation from their batterers. The Vermont Network as a whole is comprised of decades of experience and expertise regarding how the court system responds to women and children who are battered. In

that vein, we train, collaborate, and problem solve with our courts, legislators, law enforcement, prosecutors, and the media in hopes of providing a more effective net of protection for battered women who ask for help through protection orders. It is imperative that those affected by intimate partner violence are able to rely on this type of legal support and protection in an effort to keep them safe and hold their batterers accountable for their actions. What happened to Jessica Gonzales is inexcusable. If women and their children cannot rely on good faith efforts of protection from law enforcement and the courts, then there is little initial legal support we, as advocates, can offer to them. Domestic assault is a crime, and should be recognized as such. Although protective orders cannot ensure a woman's safety, they are often a crucial step in affording a victim of this crime safety and freedom.

The **Virginia Sexual and Domestic Violence Action Alliance (VSDVAA)** is a non-profit organization representing domestic violence and sexual assault programs and individual battered and formerly battered women. VSDVAA has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

Virginia conducted a protective order study funded by the Office on Violence Against Women Grants to Encourage Arrest and the Enforcement of Protective Orders. In FY2003,

there were approximately 40,000 protective orders entered into the Virginia State Police database. The study found that protective orders were more prevalent in communities with a population under 150,000. A more in-depth review of 100 local case files involving protective orders found that 28% of protective order respondents had violated a protective order at least once. The same grant funded a statewide annual family violence and intimate partner fatality surveillance project by the Virginia Office of the Chief Medical Examiner. In 2003, of the 410 adult homicide victims, 13% were killed by intimate partners. Of the adult *female* victims, 30% were killed by intimate partners. Protective orders must be enforced to reduce the number of family and intimate partner homicides.

The **Washington State Coalition Against Domestic Violence (WSCADV)** is a non-profit organization, incorporated in the state of Washington. Founded in 1990, WSCADV is a statewide membership organization committed to eradicating domestic violence through advocacy and action for social change. WSCADV's core membership is comprised of domestic violence shelters and advocacy programs statewide that provide services for victims of domestic violence. Founded by domestic violence survivors, the WSCADV was organized to share resources, develop common strategies and strengthen community responses to domestic violence around the state. The core commitment of the WSCADV is to support domestic violence survivors, and emergency shelter and advocacy programs by advocating for laws and public policies that promote safety and justice for domestic violence victims.

WSCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net

of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services. According to a research study at the University of Washington, battered women who obtain permanent protection orders are 80% less likely to be physically assaulted again than those who do not file for such orders. Toward that end, victims of domestic violence should be able to seek legal protection from abuse violence and not have their rights restricted for seeking such protection.

The **West Virginia Coalition Against Domestic Violence (WVCADV)** is a non-profit organization representing licensed domestic violence programs throughout the state. The WVCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. Since 1988, WVCADV has worked closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women in restoring their lives and confidence. Professionals in multiple systems have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Wisconsin Coalition Against Domestic Violence (WCADV)** is a non-profit organization, incorporated in the State of Wisconsin. Founded in 1978, WCADV is a statewide membership organization comprised of battered women, formerly battered women, domestic abuse programs and individuals committed to ending domestic violence. The mission of the WCADV is to eliminate domestic violence by

changing societal attitudes, practices and policies about women from diverse groups, their children and violence through education, advocacy and social action.

The WCADV is the only statewide organization in Wisconsin that provides training and technical assistance on domestic violence issues for battered women's advocates, other professionals and community lay people. WCADV actively promotes public policy to protect victims of domestic violence and their children, including policy advocacy to increase efficacy of protective orders. The WCADV has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. WCADV provides training and works closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.

The **Wyoming Coalition Against Domestic Violence & Sexual Assault** is a non-profit organization representing domestic violence programs and individual battered and formerly battered women. The Wyoming Coalition Against Domestic Violence and Sexual Assault has extensive expertise on the physical, emotional and economic dangers women and their families face when they stand up to their batterers in a court of law. We work closely with courts, legislators, the police, prosecutors, and the media in providing a more effective net of protection for battered women who ask for help through a protective order. We have seen first-hand the positive effects that protective orders, the police, and prosecutors have had on women in

restoring their lives and confidence. We have also seen the effects of protective orders for perpetrators, including reducing recidivism and providing linkages with batterer intervention services.